IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

-

WRIT PETITION NO.330 of 1999

Between:

1. Mitai Dakaiah, S/o.Yellaiah, 60 years, R/o.Bhavani Road, Kamareddy, Nizamabad District.

2. Kachapuram Siddiramulu, S/o.Bhoomaiah, 35 years, Government Servant, R/o.Bhavani Road, Kamareddy, Nizamabad District.

3. Kachapuram Yellaiah, S/o.Bhoomaiah, 32 years, R/o.Bhavani Road, Kamareddy, Nizamabad District.

4. Kachapuram Narasimhlu, S/o.Bhoomaiah, 28 years, R/o.Bhavani Road, Kamareddy, Nizamabad District.

5. Kunta Balavva, W/o.Narasimhlu, R/o.Bhavani Road, Kamareddy, Nizamabad District.

...PETITIONERS

AND

1. The Mandal Revenue Officer, Kamareddy, Nizamabad District.

2. M.Kishan Goud, S/o.Gangadhar Goud, 50 years, Business, R/o.Godown Road, Old Bus Stand, Kamareddy, Nizamabad District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or Direction declaring the action of the respondent No.1 herein at the instance of the respondent No.2 attempting to evict the petitioners from the respective portions in their occupation situate in Survey No.732/36, 37, 38 & 39

of Kamareddy Village, Nizamabad District as bad, illegal and violative of principles of natural Justice and Article 14 and 300-A of the Constitution of India and consequently direct the respondents not to interfere with the occupation and enjoyment of the petitioners over the lands without the process of law.

Counsel for the Petitioners: MR.T.JAGDISH

Counsel for the Respondent No.1: GP FOR ASSIGNMENT

The Court made the following:

ORDER:

The five petitioners herein seek a Writ of Mandamus declaring the action of the respondents herein to evict the petitioners from the respective portions of land in their occupation in Survey Nos.732/36, 37, 38 & 39 of Kamareddy Village, Nizamabad District as illegal and arbitrary. It is the case of the petitioners that they have been in possession of the land admeasuring 0.20 gts to 0.25 gts in the said survey numbers since the year 1956, which was assigned to them. They alleged that by an order dated 28.10.1998 the Mandal Revenue Officer (for short 'the MRO') cancelled the assignment and ordered resumption of the lands on an allegation that the petitioners alienated the assigned land in favour of Sri Medidoddi Kishan Goud, S/o.Lacha Goud in contravention of the provisions of the A.P.Assigned Lands (Prohibition on Transfers) Act, 1977 ('the Act' for brevity). Thereafter the petitioners appear to have approached the first respondent denying transfer of assigned land. They also alleged that as the order dated 28.10.1998 was not sent to the petitioners, the MRO again issued notice for taking action under Section 4 of the Act. Even before the petitioners could file their explanation, the Revenue Inspector came to the lands on 09.01.1999 and threatened to dispossess them. Therefore, they filed the present Writ Petition.

I have heard the learned counsel for the petitioners and learned Government Pleader for Revenue (Assignment). It is submitted by the learned counsel for the petitioners that the petitioners have alienated the assigned lands is not true and that no notice was issued to the petitioners before passing the order cancelling the assignment. A reading of the order passed by the MRO, dated 28.10.1998 belies such contention. It is clearly mentioned that after coming to know that the petitioners alienated the land, notice was issued to all the petitioners informing the purchaser, who filed explanation. Be that as it is, the order passed by the MRO was not communicated to the petitioners. The petitioners also have not placed before this Court any notice allegedly issued subsequent to the order of cancellation. Therefore, this Writ Petition is disposed of giving an opportunity to the petitioners to file an appeal under Section 4A of the Act before the jurisdictional Revenue Divisional Officer against the order dated 28.10.1998, a copy of which is annexed to the Writ Petition. Till their appeal is disposed of, there shall be *status quo* as on today. Further, it is made clear, if the petitioners' land which was assigned to them is required for any public purpose, the first respondent, needless to mention, follow the law laid down by the Full Bench Judgment of seven Judges of this Court in ***LAO-cum-RDO, Chevella Division v. Mekala Pandu.***

With the above observations, the Writ Petition is disposed of.

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(V.V.S.RAO, J)

21st July 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copies to:

1. The Mandal Revenue Officer, Kamareddy, Nizamabad District.
2. Two CCs to G.P. for Assignment, High Court of A.P., Hyderabad (OUT)
3. Two CD copies.